

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ALEXANDER KALARICKAL,

Plaintiff,

-against-

ROBERT WILKIE, Secretary; DEPARTMENT  
OF VETERANS AFFAIRS (Agency),

Defendants.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 1/26/2021

20-CV-10249 (VSB)

ORDER OF SERVICE

VERNON S. BRODERICK, United States District Judge:

Plaintiff brings this *pro se* action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17, alleging that his employer discriminated against him based on his national origin, color, age, and disability. He also alleges retaliation based on his prior discrimination charges brought against Defendants. By order dated January 5, 2021, the Court granted Plaintiff's request to proceed *in forma pauperis* (IFP).

## DISCUSSION

### A. Order of service

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summonses and complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date the

summonses are issued. If the complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App’x 50, 52 (2d Cir. 2010) (“As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals’ failure to effect service automatically constitutes ‘good cause’ for an extension of time within the meaning of Rule 4(m).”).

To allow Plaintiff to effect service on Defendants Secretary Robert Wilkie and the U.S. Department of Veterans Affairs through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for these defendants. The Clerk of Court is further instructed to (1) mark the box on the USM-285 forms labeled “Check for service on U.S.A.”; (2) issue summonses; and (3) deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

**B. Motion to appoint *pro bono* counsel**

The factors to be considered in ruling on an indigent litigant’s request for counsel include the merits of the case, Plaintiff’s efforts to obtain a lawyer, and Plaintiff’s ability to gather the facts and present the case if unassisted by counsel. *See Cooper v. A. Sargenti Co.*, 877 F.2d 170, 172 (2d Cir. 1989); *Hodge v. Police Officers*, 802 F.2d 58, 60-62 (2d Cir. 1986). Of these, the merits are “[t]he factor which command[s] the most attention.” *Cooper*, 877 F.2d at 172. Because it is too early in the proceedings for the Court to assess the merits of the action, Plaintiff’s motion for counsel is denied without prejudice to renewal at a later date.

**C. Consent to electronic service and submit future filings by email**

In light of the current global health crisis, parties proceeding *pro se* are encouraged to submit all filings by email to [Temporary\\_Pro\\_Se\\_Filing@nysd.uscourts.gov](mailto:Temporary_Pro_Se_Filing@nysd.uscourts.gov). *Pro se* parties also are encouraged to consent to receive all court documents electronically. A [consent to electronic service form](#) is available on the Court's website. *Pro se* parties who are unable to use email may submit documents by regular mail or in person at the drop box located at the U.S. Courthouses in Manhattan ([500 Pearl Street](#)) and White Plains ([300 Quarropas Street](#)). For more information, including instructions on this new email service for *pro se* parties, please visit the Court's website at [nysd.uscourts.gov](http://nysd.uscourts.gov).

**CONCLUSION**


The Clerk of Court is directed to mail a copy of this order to Plaintiff, together with an information package.

The Clerk of Court is further instructed to complete the USM-285 forms with the addresses for Secretary Wilkie and the Department of Veterans Affairs, issue summonses, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Court denies Plaintiff's motion for the appointment of counsel (ECF 4), without prejudice to renewal at a later date. The Court also denies Plaintiff's motion to proceed IFP (ECF 3) as moot because his first application to proceed IFP was granted (ECF 5).

SO ORDERED.

Dated: January 26, 2021  
New York, New York

  
VERNON S. BRODERICK  
United States District Judge

**DEFENDANTS AND SERVICE ADDRESSES**

1. Robert Wilkie, Secretary  
U.S. Department of Veterans Affairs  
810 Vermont Ave, NW  
Washington, DC 20420
2. U.S. Department of Veterans Affairs  
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